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and Harry Harrison*

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HAZEL WALSH,

Plaintiff,

v.

KINDRED HEALTHCARE, INC., et al.,

Defendants.

Case No. 3:11-cv-00050-JSW

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING ADDITIONAL
PLAINTIFFS AND AMENDMENT TO
CLASS DEFINITION**

The Honorable Jeffrey S. White

WHEREAS on March 26, 2012 the Court granted Defendants' motions to dismiss Plaintiffs' claim under Cal. Civ. Code § 1750 et. seq. ("CLRA claim"), and granted Plaintiffs leave to amend their CLRA claim by April 13, 2012, *see* Order Regarding Rossmoor's Motion to Dismiss (Dkt. 92), at 5;

WHEREAS Plaintiffs requested that Defendants stipulate to the addition of Gordon Adams (Kindred Traditional Care and Rehabilitation - Smith Ranch) and Beverly Bakken (Santa

1 Cruz Healthcare Center) as plaintiffs and to remove Phyllis Menzie as a class representative (Santa
2 Cruz Healthcare Center);

3 **WHEREAS** Plaintiffs also requested that Defendants stipulate to the amendment of the
4 definition of the proposed class;

5 **WHEREAS** Plaintiffs included the requested changes in their Third Amended Complaint
6 filed on April 13, 2012 and notified Defendants that they were doing so in anticipation of a
7 stipulation;

8 **NOW THEREFORE**, the parties now stipulate that:

9 1. Gordon Adams and Beverly Bakken will be added as plaintiffs, and Phyllis Menzie
10 will be withdrawn as a class representative;

11 2. Plaintiffs will amend the definition of the proposed class as reflected in Paragraph
12 79 of the Third Amended Complaint filed on April 13, 2012;

13 3. This stipulation is made without prejudice to Defendants' right to raise any
14 appropriate substantive or procedural challenge(s) to the new plaintiffs and the new class
15 definition, including arguments based on the statute of limitations and/or that the new class and
16 subclass definitions and the new plaintiffs do not relate back to the filing of the original complaint;
17 and

18 4. Defendants will respond to the Third Amended Complaint by May 14, 2012.

19 Dated: April 23, 2012

20 Respectfully submitted,

21 MANATT, PHELPS & PHILLIPS

22 By: /s/ Brad W. Seiling
23 Brad W. Seiling
Attorney for Defendants

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1 Dated: April 23, 2012

Respectfully submitted,

2 STEBNER & ASSOCIATES

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4 By: /s/ Kathryn Ann Stebner
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26 *Attorneys for Plaintiffs ARLENE BETTENCOURT and*
27 *HARRY HARRISON*

1 Pursuant to General Order 45, Part X-B, the filer attests that concurrence in the
2 filing of this document has been obtained from Brad W. Seiling and Kathryn Ann Stebner.

3
4 ~~PROPOSED~~ ORDER

5 PURSUANT TO STIPULATION, IT IS SO ORDERED.

6
7 Dated: April 24, 2012

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The Honorable Jeffrey S. White

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